IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WA.No. 841 of 2007()

AGAINST THE JUDGEMENT IN WPC.6905/2007
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APPELLANTS/RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY SECRETARY
TO GOVERNMENT,DEPARTMENT OF FOREST,
SECRETARIAT,THIRUVANANTHAPURAM.

2. THE DIVISIONAL FOREST OFFICER,PALAKKAD.

3. THE FOREST RANGE OFFICER,WALAYAR.

BY SPL.GOVERNMENT PLEADER (FOREST) MR.M.P.PRAKASH

RESPONDENT/PETITIONER:

K.G.KURUVILLA,POWER OF ATTORNEY HOLDER,
G.P.NAIR FAMILY TRUST,KAYYALACKAKOM,KURAVANKONAM
JUNCTION,THIRUVANANTHAPURAM.

BY ADV. SRI.C.E.UNNIKRISHNAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN, Ag.C.J. &
M.N.KRISHNAN, J.

W.A.No.841 of 2007

Dated, this the 2nd day of April, 2007

JUDGMENT

Radhakrishnan, Ag.C.J.

Heard learned counsel on either side.

2. we find it unnecessary to examine the various contentions raised before us since the matter is already seized before the District Court, Palakkad in C.M.A.No.63 of 2006. The writ petition was preferred by the respondent herein seeking a writ of mandamus directing the District Judge, Palakkad to consider and dispose of C.M.A.No.63 of 2006 and also for a writ of mandamus directing respondents 2 and 3 and their subordinate officers not to obstruct the agricultural operations and the peaceful possession and enjoyment of the petitioner over the area identified as Zone I of the property by this Court in M.F.A.No.610 if 2003 and the buildings situated within the property.

3. We are of the view that the learned Single Judge could have disposed of the writ petition either directing the District Judge to pass appropriate orders on the interim application preferred by the respondent or to dispose of the C.M.A. itself at

the earliest, rather than examining the issues under Article 227 of the Constitution of India. Therefore, we are inclined to dispose of this writ appeal with a direction to the District Judge, Palakkad to dispose of C.M.A.No.63 of 2006 at the earliest with a further direction to dispose of the interim application at the earliest, at any rate on or before 13.4.2007. We make it clear that the respondent if so advised may make an application for appointment of an Advocate Commissioner to ascertain the details of the agricultural operations which he claims to have effected in the property in question and seek appropriate orders in accordance with law before the court below. The impugned judgment passed by the learned Single Judge is modified accordingly without expressing any opinion on the merits of the case.

Writ appeal is disposed of as above.

K.S.RADHAKRISHNAN,
Ag.CHIEF JUSTICE.

M.N.KRISHNAN,
JUDGE.

vns